

102 10-101
FILED/ACCEPTED

APR 26 2010

Federal Communications Commission
Office of the Secretary

DOCKET FILE COPY ORIGINAL

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

In re: Rules and regulations implementing regulatory authority over pole
attachments.

In response to a petition for rule making filed by South Central Bell Telephone Company, and in light of amendments to 47 U.S.C. Section 224(c), to become effective December 28, 1984, the Commission at its meeting on December 17, 1984 reaffirmed its previously adopted orders and regulations implementing its existing authority over pole attachments and conduit occupancy within the State of Louisiana between public utilities operating in the State of Louisiana and cable television operators. In promulgating these rules, the Commission has considered the interest of subscribers of cable television services, subscribers of utility services, and cable television operators as well as the interests of public utility companies.

In the past, cable television operators have entered into independent contracts with public utility companies for the use of pole attachment and conduit space. It is the opinion of the Commission that it is in the public interest and in the interest of subscribers of cable television services and subscribers of utility services that utility and cable television operators continue jointly to use poles and conduit to reduce costs and to prevent duplication of these structures. The Commission believes that continuation of this practice will serve to allocate the costs of installing and maintaining utility poles and conduits between public utilities and cable television operators, which costs are ultimately incurred by the subscribers of these services. The Commission believes that the contract procedure outlined above subject to Commission orders and regulations may continue to be used but, should a regulated public utility file tariffs regulating pole attachments and/or conduit occupancy, the Commission shall then review said tariffs and provide for by applicable statutes, Commission orders and regulations, and rules of practice and procedure with proper notice and opportunity to be heard given to all interested parties.

In order to best protect the interests of public utilities, cable television operators, and the subscribers of these services, and in order to foster joint use of utility poles and conduit, the Commission believes that any interested party should be entitled to file a complaint concerning the rates, terms and conditions of pole attachment or conduit occupancy agreements, or with respect to any individual matter, and the Commission will take timely final action on any such complaint so filed.

IT IS ORDERED THAT:

1. The rates charged public utilities or cable television operators for pole attachment space on utility poles and in conduit owned by public utilities shall, in general, be established by independent contracts entered into between the cable television operators and public utilities subject to Commission orders and regulations pertaining thereto or by tariffs filed by said utility and accepted by the Commission after proper notice and opportunity to be heard by all interested parties.

2. Any interested party may file a complaint for the purpose of determining the rates, terms and conditions of pole attachment and conduit occupancy agreements, or with respect to any individual matter, pursuant to the Rules of Practice and Procedure promulgated by the Louisiana Public Service Commission and available from the body, and that timely final action will be taken on any such complaint so filed.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
December 17, 1984

/s/ George J. Ackel
C H A I R M A N

/s/ John F. Schwegmann
V I C E C H A I R M A N

/s/ Ed Kennon
C O M M I S S I O N E R

/s/ Louis J. Lambert
C O M M I S S I O N E R


Paul S. Dunn
S E C R E T A R Y

/s/ Thomas E. Powell
C O M M I S S I O N E R

ORDER NO. U-14325-A

LOUISIANA PUBLIC SERVICE COMMISSION,

DOCKET NO. U-14325

ex parte

 In re: Agreements for joint utilization of poles and facilities by two or more utilities.

This Commission in its Order No. U-14325 dated October 31, 1980 considered and approved a method of calculating joint use pole rental agreements. This method paralleled the method formulated by the Federal Communications Commission (FCC) in its Docket No. 78-144 except that this Commission allocated a portion of the "work space" or "safety space" to the attaching telephone company. This allocation gave 2 feet as the occupied space and 13.5 feet as the usable space.

The equation approved by the Commission is as follows:

Rate:	$\frac{\text{Occupied Space}}{\text{Usable Space}}$	x	Net cost of a bare pole	x	Carrying Charges.	or
$\frac{2}{13.5}$		x	Net cost of a bare pole	x	Carrying Charges.	or

\$3.50. Whichever is the lesser.

Louisiana Power & Light Company requested that the Commission reconsider its Order No. U-14325 and asked that the \$3.50 ceiling be eliminated leaving only the formula for use in calculating rental charges.

The request was considered by the Commission in its Open Session held December 18, 1980

The Commission reaffirmed its formula for calculating the annual cost to be assessed and agreed to eliminate the \$3.50 ceiling. It is therefore

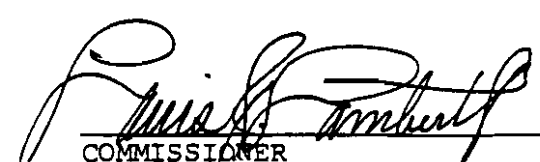
ORDERED that the method of calculation use pole rental agreements formulated in Order No. U-14325 be continued. It is further

ORDERED that the \$3.50 ceiling be eliminated.

BY ORDER OF THE COMMISSION
 BATON ROUGE, LOUISIANA
 JANUARY 9, 1981


 CHAIRMAN


 VICE CHAIRMAN


 COMMISSIONER


 COMMISSIONER


 COMMISSIONER


 SECRETARY

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. U-14325

LOUISIANA PUBLIC SERVICE COMMISSION

DOCKET NO. U-14325

ex parte

In re: Agreements for joint utilization of poles and facilities by two or more utilities.

In this proceeding the Commission requested all electric and telephone companies subject to its jurisdiction to appear at a rule making hearing to receive evidence to formulate an agreement for joint utilization of poles and facilities.

The original hearing was held on January 31, 1980 by Hearing Examiner Edward L. Gallegos. At that time, position papers of the parties were introduced into the record.

Louisiana Power & Light Company (LP&L) introduced a proposal to formulate a working committee, composed of four representatives of the four investor-owned electric utilities, four representatives of independent telephone companies and one representative of South Central Bell Telephone Company (South Central Bell), for a total of nine representatives. All representatives were non-attorneys. The Examiner accepted the formation of the committee and adjourned the hearing to await the report.

The joint pole rental committee filed its findings through a letter of its chairman, Mr. W. T. Landry, of South Central Bell. The committee could not issue a single recommendation and as a result recommendations were submitted from members representing the electric utilities and the Louisiana Telephone Association. In addition, rebuttal papers were also submitted.

Representatives from the independent telephone industry testified that the majority of their plant is now constructed underground and that the majority of the joint use poles must now be owned by the electric utilities since the need by telephone companies is for road crossings and for service lines. They further feel that the concept calling for each utility to own its prorata share of poles, can not now be met by the independent telephone companies, since it would now require substantial investment for them to own their prorata of poles. The contracts with the electric companies have called for each utility to own its prorata of poles but that the ratio was not maintained.

The independent companies suggest that the Commission follow the procedures used by the Federal Communications Commission (FCC) in its Docket No. 78-144 which calls for rentals to be paid by the attaching utility calculated on the occupied space. The allocation factor to be based on the occupied space divided by the usable space.

Representatives from the investor-owned electric companies testified that most contracts between utilities call for each company to pay an attachment rental based on the percentage each company shares of the total annual cost for pole rental purposes. Each company to use actual embedded costs. A typical 35 foot pole is shared based on 55.7% to be used by the electric company and 44.3% for the telephone company.

South Central Bell and Southwestern Electric Power Company (Swepeco) testified that they wish to continue to use their method of computing pole rental until such time as problems arise.

The concept referred to in FCC Docket No. 78-144 considered a pole rental rate to be just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than "... an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way". The term "usable space" is defined as the space above the minimum grade level which can be used for the attachment of wires, cables, and associated equipment.

The FCC equation can be summarized as follows:

Rate:	$\frac{\text{Occupied space}}{\text{Usable space}}$	X	$\text{Net cost of a bare pole}$	X	Carrying charges
-------	---	---	----------------------------------	---	---------------------------

The carrying charges are calculated by expressing maintenance expense, depreciation, administrative expense, taxes, and return on investment as a percentage of gross plant or gross pole investment.

It is the opinion of the Commission that it is in the public interest for utilities to continue to use poles jointly to reduce costs and to prevent duplication of these support poles in servitudes. We further see that the utility who bears ownership of the joint use poles receives a return on investment by the mere fact that this investment is placed in the Company's books as plant. Any rentals received are additional revenues to be enjoyed by the utility. It is apparent that the attachment of telephone facilities to existing electric pole lines is of little burden to the electric utility since the usual pole line will support the added weight and volume plus it is generally agreed that any revamping of the electric pole for the benefit of the telephone company will be done at the expense of the telephone company.

The FCC formula does not address itself to that portion of the "usable space" not used by either utility as "occupied space". This space amounts to some 6 feet and can be considered "work space" or "safety space". This Commission is of the opinion that a portion of this space should be allocated to the attaching telephone company in calculating rental charges. It is therefore

ORDERED that joint use pole agreements be written so as to conform to the formula already adopted by the FCC with the proviso that telephone companies be allocated one foot of the "work space" or "safety space" for a total of 2 feet within the numerator of the equation. The rate will then be calculated as

$$\frac{2}{13.5} \times \text{Net cost of a bare pole} \times \text{Carrying charges.} \quad \text{or}$$

\$3.50. Whichever is the lesser. It is further

ORDERED that those companies who have entered into agreements which satisfy both parties, can continue with these agreements.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
OCTOBER 31, 1980

CHAIRMAN

VICE CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

SECRETARY